

HAWAII ADMINISTRATIVE RULES

TITLE 2

OFFICE OF THE LIEUTENANT GOVERNOR

SUBTITLE 4 ELECTIONS

CHAPTER 50

ADOPTION, AMENDMENT, OR REPEAL OF RULES
BY CHIEF ELECTION OFFICER

- §2-50-1 Chief election officer initiates
- §2-50-2 Petitions for the adoption, amendment, or repeal of rules
- §2-50-3 Adoption, amendment, or repeal of rules
- §2-50-4 Conduct of hearing
- §2-50-5 Decision; taking effect of rules
- §2-50-6 Emergency rule making
- §2-50-7 Construction of rules

Historical note: Chapter 2-50 is based substantially upon Chapter 2-38 [Eff 9/13/82; ren and comp SEP 16 1996]

§2-50-1 Chief election officer initiates. When upon the chief election officer's own motion, the chief election officer proposes to adopt, amend, or repeal a rule for state, combined state and county, or county elections, a notice of proposed rule making shall be published as required by law.

[Eff 9/13/82; §2-38-1 ren and comp SEP 16 1996] (Auth: HRS §§11-4, 91-6) (Imp: HRS §§11-4, 91-3, 92-41)

§2-50-2 Petitions for the adoption, amendment, or repeal of rules. (a) Any interested person or agency may petition the chief election officer for the adoption, amendment, or repeal of any election rule. The petition need not be in any prescribed form, but it shall contain all of the following:

- (1) The name, address, zip code, and telephone number of the petitioner;

- (2) The signature of the petitioner;
- (3) A statement of the nature of petitioner's interest;
- (4) A draft or substance of the proposed rule or amendment or a designation of the provisions sought to be repealed;
- (5) A statement of the reasons in support of the proposed rule, amendment, or repeal; and
- (6) Any other information pertinent to the petition.

(b) An original copy of the petition shall be filed with the chief election officer. Each petition shall be date-stamped upon receipt and shall become a public record upon filing. The chief election officer may require the petitioner to furnish copies of the petition to other persons or governmental agencies known to be interested in the proposed rule making, amendment, or repeal.

(c) The chief election officer, within thirty days after the receipt of the petition, shall either deny the petition in writing, stating the reasons for the denial, or initiate proceedings in accordance with the provisions of §2-50-1 for the adoption, amendment, or repeal of rules. Any petition which does not conform to the requirements specified in this section may be rejected.

(d) No public hearing, oral argument, or other form of proceeding shall be held directly on the granting or denial of the petition.

[Eff 9/13/82; §2-38-2 ren, am and comp SEP 16 1996] (Auth: HRS §§11-4, 91-6) (Imp: HRS §§11-4, 91-2, 91-6)

§2-50-3 Adoption, amendment, or repeal of rules.

When, pursuant to a petition therefore, or upon the chief election officer's own motion, the chief election officer proposes to adopt, amend, or repeal a rule, the rule shall be adopted, amended, or repealed in accordance with the procedures set forth in chapter 91 and section 92-41, HRS. [Eff 9/13/82; §2-38-3 ren and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§91-3, 91-6, 92-41)

§2-50-4 Conduct of hearing. (a) The chief election officer shall afford all interested persons the opportunity to submit data, views, or arguments, orally or in writing.

- (1) Written testimony shall be submitted to the

- chief election officer at least twenty-four hours prior to the hearing.
- (2) Any person submitting written testimony on the day of the hearing shall furnish ten copies of such testimony to the chief election officer's staff prior to the hearing.
 - (3) In addition, or in lieu of written testimony, any person may file with the chief election officer within two days following the close of the public hearing a written protest or other comments or recommendations in support of or in opposition to the proposed rule making. Such persons shall notify the chief election officer at the time of the hearing that they intend to file written materials after the hearing. The period for filing written protests, comments, or recommendations may be extended by the chief election officer for good cause.
- (b) The chief election officer or the designated representative shall conduct the public hearing.
- (c) The presiding officer shall do all of the following:
- (1) Read the notice of hearing and outline briefly the procedures to be followed;
 - (2) Receive testimony from any person with respect to the matters specified in the notice of hearing according to the announced procedures. Each person giving testimony shall state the person's name, address, and whom the person represents at the hearing before testifying;
 - (3) Have a concise record of the proceedings kept. Unless otherwise specifically ordered by the presiding officer, testimony given at the hearings shall not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered at the hearing, and which are considered by the presiding officer to be authentic and relevant, shall be received and made a part of the record. Unless the presiding officer finds that the furnishing of copies is impractical, two copies of exhibits shall be submitted; and
 - (4) Make any decision concerning the continuance of the hearing. As determined by the presiding officer, the hearing held at the time and place set in the notice of hearing may be continued

from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

[Eff 9/13/82; §2-38-4 ren and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §§11-4, 91-3)

§2-50-5 Decision; taking effect of rules. (a) At the close of the final public hearing, the presiding officer shall announce the decision or announce the date when the decision shall be published.

(b) The adoption, amendment, or repeal of any rule shall be subject to the approval of the governor as required by law.

(c) Each rule change announced by the governor shall become effective ten days after a certified copy is filed with the lieutenant governor as provided by law.

[Eff 9/13/82; §2-38-5 ren and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-4) (Imp: HRS §§11-4, 91-3, 91-4)

§2-50-6 Emergency rule making. The chief election officer may adopt emergency rules as provided in §91-4, HRS.

[Eff 9/13/82; §2-38-6 ren and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-4)

§2-50-7 Construction of rules. This subtitle shall be construed to promote meaningful procedure and organization in the administration of the state, combined state and county, and county elections in order to promote public participation and confidence in the electoral process.

[Eff 9/13/82; §2-38-7 ren and comp SEP 16 1996] (Auth: HRS §11-4) (Imp: HRS §11-4)